

**SUPREME COURT RULES (AMENDMENT No. 298) 1996**

NEW SOUTH WALES



*[Published in Gazette No. 22 of 23 February 1996]*

1. These rules are made by the Rule Committee on 19 February 1996.
2. The Supreme Court Rules 1970 are amended as follows:
  - Part 65C rule 4 (4)
    - Omit paragraph (d) and the balance of subrule (4) after that paragraph and insert instead:
      - (d) within 14 days after,
        - filing the notice, file the form of oath and the certificate.
3. The Supreme Court Rules 1970 are further amended as follows:
  - Part 77
    - After rule 107 insert:

**Division 40—Witness Protection Act 1995**

**Assignment of business**

108. Proceedings for an order under section 17, section 19 or section 34 (2) of the Witness Protection Act 1995 (“the subject Act”) are assigned to the Common Law Division.

**Section 17 applications**

109. Proceedings for an order under section 17 of the subject Act shall be commenced by summons without joining any person as a defendant.

**Section 19 (2) applications**

110. Proceedings for an order under section 19 (2) of the subject Act in respect of an entry shall be commenced by summons joining as a defendant the person to whom the entry relates.

**Section 34 (2) applications**

111. Proceedings for an order under section 34 (2) of the subject Act shall be commenced by summons joining as a defendant the person against whom the order is sought.

4. The Supreme Court Rules 1970 are further amended as follows:

(a) Part 77 rule 91

Omit the rule and insert instead:

**Forms**

91. A minute of order under section 3 (2), section 4 (1) or section 14 (3) and a notice required under section 5 (1) of the subject Act may be in the forms prescribed.

(b) SCHEDULE F Form 89I

After “s. 4 (1)” insert “or s. 14 (3).”

5. The Criminal Appeal Rules are amended as follows:

Rule 78

Omit “of Justice” and insert instead “under section 474C (1) of the Crimes Act 1900”.

6. The Supreme Court Rules 1970 are further amended as follows:

SCHEDULE F Form 160

After “Telephone Number:” insert on a new line “Facsimile number:”.

7. The Supreme Court Rules 1970 are further amended as follows:

(a) Part 65 rule '7 (3A) and (3B)

Omit the subrules and insert instead:

(3A) Subject to subrule (3B), a person may not, except with the leave of the Court, inspect any order filed in the Court:

(a) made by:

(i) the Professional Standards Board under section 149; or

(ii) the Disciplinary Tribunal under section 154 (1), of the Legal Profession Act 1987 as in force from time to time prior to 1 July 1994; or

(b) made by the Legal Services Tribunal under section 171C of the Legal Profession Act 1987.

- (3B) Any person may inspect any order filed in the Court:
- (a) made by the Disciplinary Tribunal under section 163 of the Legal Profession Act 1987 as in force from time to time prior to 1 July 1994; or
  - (b) made by the Legal Services Tribunal under section 171C of the Legal Profession Act 1987, if the order involves a finding of professional misconduct within the meaning of:
    - (i) that Act; or
    - (ii) the Conveyancers Licensing Act 1995.
- (b) Part 65A rule 2 (1) (b)  
Omit “48” and insert instead “481”.
- (c) Part 66A rule 1 (1)  
omit:  
140 (1) of the Conveyancers Licensing Act 1992 (the “subject Act”)  
and insert instead “171F (1) of that Act”.
- (d) Part 66A rules 2 and 3  
Omit the rules and insert instead:
- Assignment of business**
2. Proceedings in the Court under the Conveyancers Licensing Act 1995 (other than proceedings assigned to the Court of Appeal) are assigned to the Common Law Division.
- (e) Part 77 rules 8 and 9  
Omit “Real Estate” and insert instead “Property” wherever occurring.
- (f) SCHEDULE D Part 1
- (i) From the matter relating to Act No. 28 of 1941, omit “Auctioneers and” and insert instead “Property, Stock and Business”
  - (ii) From the matter relating to Act No. 109 of 1987, omit “90 (2)” and insert instead “90C”.
  - (iii) Omit the reference to, and the matter relating to, Act No. 55 of 1992.

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(iv) At the end of the Part, in the appropriate columns, insert:

Act No. 57, 1995; Conveyancers

Licensing Act 1995:

Section 77.....	Directions relating to a receiver.	.....
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Section 85.....	Bill of costs.	.....
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8. The Supreme Court Rules 1970 are further amended as follows:

(a) Part 6 rule 11 (2) (b), Part 7 rule 1 (5), Part 16 rule 1A (l), Part 22 rule 7 (3) (d) and Part 40 rule 7 (1

After “1988” wherever occurring insert “or section 151M of the Workers Compensation Act 1987”. -

(b) Part 77 rule 378

(i) Omit “150 (1) (c)” and insert instead “151Z (1) (e)”

(ii) After “1987” insert “or under section 150 (1) (e) of that Act, as in force immediately prior to its omission by the Workers Compensation (Benefits) Amendment Act 1989”.

9. The Supreme Court Rules 1976 are further amended as follows:

SCHEDULE D Pm 1

From the matter relating to the Motor Accidents Act 1988:

(i) Omit “43A (4)” and insert instead “43A (7)”;

(ii) Omit “Strike out” and insert instead “Dismiss”;  
and

(iii) Omit “52 (3),”.

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**EXPLANATORY NOTE**

*(This note does not form part of the rules)*

1. The object of the amendment contained in paragraph 2 is to omit the requirement that an applicant under the Mutual Recognition Act should serve a copy of the oath of office on the Legal Practitioners Admission Board.

2. The objects of the amendments contained in paragraph 3 are:

(a) to assign proceedings in the Court for orders under the Witness Protection Act 1995 (“the subject Act”) to the Common Law Division;

(b) to require proceedings for a witness protection order to be commenced by summons without joining a defendant;

- (c) to require proceedings for an order under S. 19 of the subject Act for cancellation of an entry in the Register of Births Deaths and Marriages to be commenced by summons joining as a defendant the person to whom the entry relates; and
- (d) to require proceedings for an order that a person to whom S. 34 of the subject Act applies to be commenced by summons joining as a defendant the person against whom the order is sought.

3. The object of the amendments contained in paragraph 4 is to make provision for applications to the Supreme Court under S. 14 (3) of the Disorderly Houses Act 1943 (which relates to rescission of a declaration that premises used as a brothel are a disorderly house).

4. The objects of the amendments contained in paragraph 5 is to substitute a reference to the appropriate Minister for a superseded reference to the Minister of Justice;

5. The object of the amendment contained in paragraph 6 is to allow the inclusion of a notary's facsimile number in particulars provided to the Court for inclusion in the Law Almanac.

6. The objects of the amendments contained in paragraph 7 are to:

- (a) take account of the replacement of the Conveyancers Licensing Act 1992 by the Conveyancers Licensing Act 1995;
- (b) take account of the change of name of the *Auctioneers and Agents Act 1941* to the *Property, Stock and Business Agents Act 1941*; and
- (c) make changes of a consequential or ancillary nature.

7. The objects of the amendments contained in paragraph 8 are to include references to ss. 151M and 151Z (1) (e) of the Workers Compensation Act 1987 and to substitute a reference to S. 150 (1) (e) for an incorrect reference to S. 150 (1) (c).

8. The object of the amendments contained in paragraph 9 is to take account of the Motor Accidents Amendment Act 1995.

M. A. Blay, the Secretary of the Rule Committee

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